

Filed for intro on 02/03/2000
SENATE BILL 3215 By
Henry

HOUSE BILL 3228
By Kisber

AN ACT to enact the Uniform Community Development District
Act of 2000.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act may be cited and shall be known as the "Uniform Community
Development District Act of 2000."

SECTION 2.

(a) The general assembly finds that:

(1) There is a need for uniform, focused, and fair procedures in state law to provide a reasonable alternative for the establishment, power, operation, and duration of independent districts to manage and finance community development services; and that, based upon a proper and fair determination of applicable facts, an independent district can constitute a timely, efficient, effective, responsive, and economic way to deliver these services, thereby providing a solution to the state's planning, management, and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and their taxpayers.

(2) It is in the public interest that any independent special district created pursuant to state law not outlive its usefulness and that the operation of such a district and the exercise by the district of its powers be consistent with applicable due process,

disclosure, accountability, ethics, and open meetings requirements which apply both to governmental entities and to their elected and appointed officials.

(3) It is in the public interest that long-range planning, management, and financing and long-term maintenance, upkeep, and operation of services for community development districts be under one coordinated entity.

(b) It is the policy of this state that:

(1) The needless and indiscriminate proliferation, duplication, and fragmentation of local government services by independent districts is not in the public interest.

(2) Independent districts are a legitimate alternative method available for use by the private and public sectors, as authorized by state law, to manage and finance services for community developments.

(3) The exercise by any independent district of its powers as set forth by general law comply with all applicable governmental laws, rules, regulations, and policies governing planning and permitting of the development to be serviced by the district, in order to ensure that the district so established does not have any zoning or permitting powers governing development.

(4) The process of establishing such a district pursuant to general law be fair and based only on factors material to managing and financing the service-delivery function of the district, so that any matter concerning permitting or planning of the development is not material or relevant.

(c) It is the legislative intent and purpose, based upon, and consistent with, its findings of fact and declarations of policy, to authorize a uniform procedure by general law to establish an independent special district as an alternative method to manage and finance services for community development. It is further the legislative intent and purpose to provide by general law for the uniform operation, exercise of power, and procedure for termination of any such independent district. It is further the purpose and intent of the general assembly that a district

created under this act not have or exercise any zoning power, and that all applicable planning and permitting laws, rules, regulations, and policies control the development of the land to be serviced by the district. It is further the purpose and intent of the general assembly that no debt or obligation of a district constitute a burden on any local government without its consent.

SECTION 3. As used in this act unless the context requires otherwise, the term:

(1) "Assessable improvements" means, without limitation, any and all public improvements and community facilities that the district is empowered to provide in accordance with this act.

(2) "Assessment bonds" means special obligations of the district which are payable solely from proceeds of the special assessments levied for an assessable project.

(3) "Board" or "board of supervisors" means the governing board of the district or, if such board has been abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given to the board by this act have been given by law.

(4) "Bond" includes "certificate," and the provisions which are applicable to bonds are equally applicable to certificates. The term "bond" includes any general obligation bond, assessment bond, refunding bond, revenue bond, and other such obligation in the nature of a bond as is provided for in this act, as the case may be.

(5) "Community development district" means a local unit of special-purpose government which is created pursuant to this act and limited to the performance of those specialized functions authorized by this act; the governing head of which is a body created, organized, and constituted and authorized to function specifically as prescribed in this act for the delivery of community development services; and the formation, powers, governing body, operation, duration, accountability, requirements for disclosure, and termination of which are as required by general law.

(6) "Comptroller" means the State's comptroller of the treasury.

(7) "Cost," when used with reference to any project, includes, but is not limited to:

(A) The expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction.

(B) The cost of surveys, estimates, plans, and specifications.

(C) The cost of improvements.

(D) Engineering, fiscal, and legal expenses and charges.

(E) The cost of all labor, materials, machinery, and equipment.

(F) The cost of all lands, properties, rights, easements, and franchises acquired.

(G) Financing charges.

(H) The creation of initial reserve and debt service funds.

(I) Working capital.

(J) Interest charges incurred or estimated to be incurred on money borrowed before and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine.

(K) The cost of issuance of bonds pursuant to this act, including advertisements and printing.

(L) The cost of any election held pursuant to this act and all other expenses of issuance of bonds.

(M) The discount, if any, on the sale or exchange of bonds.

(N) Administrative expenses.

(O) Such other expenses as may be necessary or incidental to the acquisition, construction, or reconstruction of any project or to the financing thereof, or to the development of any lands within the district.

(P) Payments, contributions, dedications, and any other exactions required as a condition to receive any government approval or permit necessary to accomplish any district purpose.

(8) "District" means the community development district.

(9) "District manager" means the manager of the district.

(10) "District roads" means highways, streets, roads, alleys, sidewalks, landscaping, storm drains, bridges, and thoroughfares of all kinds and descriptions.

(11) "General obligation bonds" means bonds which are secured by, or provide for their payment by, the pledge, in addition to those special assessments levied for their discharge and such other sources as may be provided for their payment or pledged as security under the resolution authorizing their issuance, of the full faith and credit of the district and for payment of which recourse may be had against the general fund of the district.

(12) "Landowner" means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a lessee, a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act.

(13) "Local government" means a county, or a municipality, and includes a county having a metropolitan form of government.

(14) "Project" means any development, improvement, property, utility, facility, works, enterprise, or service now existing or hereafter undertaken or established under the provisions of this act.

(15) "Refunding bonds" means bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds shall be issuable and payable in the same manner as the refinanced bonds.

(16) "Registered voter" means the same as defined in Tennessee Code Annotated, ' 2-1-104.

(17) "Revenue bonds" means obligations of the district which are payable from revenues derived from sources other than special assessments and which do not pledge the property, credit, or general revenue of the district.

(18) "Sewer system" means any plant, system, facility, or property, and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage, including, without limitation, industrial wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource. Without limiting the generality of the foregoing, the term "sewer system" includes treatment plants, pumping stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines, mains, and all necessary appurtenances and equipment; all sewer mains, laterals, and other devices for the reception and collection of sewage from premises connected therewith; and all real and personal property and any interest therein, rights, easements, and franchises of any nature relating to any such system or necessary or convenient for the acquisition, construction, reconstruction, operation, or maintenance thereof.

(19) "Water management and control facilities" means any lakes, canals, ditches, reservoirs, dams, levees, sluiceways, floodways, pumping stations, or any other works, structures, or facilities for the conservation, control, development, utilization, and disposal of water, and any purposes appurtenant, necessary, or incidental thereto. The term "water management and control facilities" includes all real and personal property and any interest therein, rights, easements, and franchises of any nature relating to any such water management and control facilities or necessary or convenient for the acquisition, construction, reconstruction, operation, or maintenance thereof.

(20) "Water system" means any plant, system, facility, or property and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the development of sources, treatment, or purification and distribution of water. Without limiting the generality of the foregoing, the term "water system" includes dams, reservoirs, storage, tanks,

mains, lines, valves, pumping stations, laterals, and pipes for the purpose of carrying water to the premises connected with such system, and all real and personal property and interest therein, rights, easements, and franchises of any nature relating to any such system or necessary or convenient for the acquisition, construction, reconstruction, operation, or maintenance thereof.

SECTION 4.

(a) This act constitutes the sole authorization for the future establishment of an independent community development district which has any of the specialized functions and powers provided by this act.

(b) All governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district. A community development district does not have the power of a local government to adopt a comprehensive plan or building code. A district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable local government.

SECTION 5.

(a) The exclusive and uniform method for the establishment of a community development district shall be pursuant to the approval of a petition for the establishment of a community development district by the comptroller.

(1) A petition for the establishment of a community development district shall be filed by the petitioner with the comptroller. The petition shall contain:

(A) A metes and bounds description of the external boundaries of the district. Any real property within the external boundaries of the district which is to be excluded from the district shall be specifically described, and the last known address of all owners of such real property shall be listed. The petition shall also address the impact of the proposed district on any real property within the external boundaries of the district which is to be excluded from the district.

(B) The written consent to the establishment of the district by the owner or owners of one hundred percent (100%) of the real property to be included in the district or documentation demonstrating that the petitioner has control by deed, trust agreement, contract, or option of one hundred percent (100%) of the real property to be included in the district.

(C) A designation of five (5) persons to be the initial members of the board of supervisors, who shall serve in that office until replaced by elected members as provided in Section 6.

(D) The proposed name of the district, and a business plan for the district.

(E) A map of the proposed district showing current major trunk water mains and sewer interceptors and outfalls if in existence.

(F) Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services. These estimates shall be submitted in good faith but shall not be binding and may be subject to change.

(G) A designation of the future general distribution, location, and extent of public and private uses of land proposed for the area within the district by the future land use plan element of any effective local government comprehensive plan.

(H) A statement of estimated regulatory compliance costs.

(I) A filing fee of fifteen thousand dollars (\$15,000).

(2) Before filing the petition, the petitioner shall:

(A) Pay a filing fee of fifteen thousand dollars (\$15,000) to the chief financial officer of each county and each municipality the boundaries of which are contiguous with, or contain all or a portion of the land within, the external boundaries of the district.

(B) Submit a copy of the petition to each county and to each municipality the boundaries of which are contiguous with, or contain all or a portion of, the land within the external boundaries of the district.

(3) Each such county and each such municipality may conduct a public hearing to consider the relationship of the petition to the factors specified in subdivision (5). The public hearing shall be concluded within forty-five (45) days after the date the petition is filed unless an extension of time is requested by the petitioner and granted by the county or municipality. The county or municipality holding such public hearing may by resolution express its support of, or objection to the granting of, the petition by the comptroller. A resolution must base any objection to the granting of the petition upon the factors specified in subdivision (5). Such county or municipality may present its resolution of support or objection at the comptroller's hearing and shall be afforded an opportunity to present relevant information in support of its resolution.

(4) A local public hearing on the petition shall be conducted by the comptroller. The hearing shall include oral and written comments on the petition pertinent to the factors specified in subdivision (5). The hearing shall be held at an accessible location in a county in which the community development district is to be located. The petitioner shall cause a notice of the hearing to be published in a newspaper at least once a week for the four (4) successive weeks immediately before the hearing. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, including a map showing clearly the area to be covered by the district, and any other relevant information which the establishing governing bodies may require. The advertisement shall be published in a newspaper of general circulation in the county. All affected units of local government and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

(5) The comptroller shall consider the entire record of the local hearing, the transcript of the hearing, resolutions adopted by local governments as provided in subdivision (3), and the following factors in making the determination to grant or deny a petition for the establishment of a community development district:

(A) Whether all statements contained within the petition have been found to be true and correct.

(B) Whether the creation of the district is inconsistent with any applicable element or portion of an effective local government comprehensive plan or an effective comprehensive growth plan under Tennessee Code Annotated Title 6, Chapter 58.

(C) Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

(D) Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

(E) Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

(F) Whether the area that will be served by the district is amenable to separate special district government.

(G) The comptroller shall not approve any petition which would expand, modify, or delete any provision of the Uniform Community Development District Act as set forth here, except as provided in Section 11.

(6) The approval of a petition establishing a community development district shall:

(A) Describe the external boundaries of the district and any real property within the external boundaries of the district which is to be excluded.

(B) Name five persons designated to be the initial members of the board of supervisors.

(C) Name the district.

(D) Upon approval of the petition, the comptroller shall issue a letter recognizing the creation of the community development district. Upon the issuance of the letter, the community development district shall be a public instrumentality of the State of Tennessee.

SECTION 6.

(a) The board of the district shall exercise the powers granted to the district. The board shall consist of five (5) members; except as otherwise provided herein, each member shall hold office for a term of four (4) years and until a successor is chosen and qualified. Each member of the board shall be a resident of the state and a citizen of the United States.

(b) (1) Within ninety (90) days after the approval of the petition establishing the district, there shall be held a meeting of the landowners of the district for the purpose of electing five (5) supervisors for the district. Notice of the landowners' meeting shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the district. The last day of such publication shall be not fewer than fourteen (14) days nor more than twenty-eight (28) days before the date of the election. The landowners, when assembled at such meeting, shall organize by electing a chair who shall conduct the meeting.

(2) At such meeting, each landowner shall be entitled to cast one (1) vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. A fraction of an acre shall be treated as one (1) acre, entitling the landowner to one (1) vote with respect thereto. The two (2) candidates receiving the highest number of votes shall be elected for a period of four (4) years, and the three (3) candidates receiving the next largest number of votes shall be elected for a period of two (2) years. The members of the first board elected by landowners shall serve their respective four (4) year or two (2) year terms; provided, however, the next election by landowners shall be held at the regular November election. Thereafter, there shall be an election of supervisors for the district every two (2) years at the regular November election. The two (2) candidates receiving the highest number of votes shall be elected to serve for a four (4) year period, and the remaining candidate elected shall serve for a two (2) year period.

(c) Members of the board shall be known as supervisors and, upon entering into office, shall take and subscribe to an oath of office. They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If, during the term of office, a vacancy occurs, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

(d) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(e) As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chair and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(f) The board shall keep a permanent record book entitled "Record of Proceedings of (name of district) Community Development District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts. The record book shall at reasonable times be open to inspection in the same manner as state, county, and municipal records pursuant to Tennessee Code Annotated, Title 10, Chapter 7. The record book shall be kept at the office or other regular place of business maintained by the board in the county or municipality in which the district is located.

(g) Each supervisor shall be entitled to receive for his or her services an amount not to exceed two hundred dollars (\$200) per meeting of the board of supervisors, not to exceed four thousand eight hundred dollars (\$4,800) per year per supervisor, or an amount established by the registered voters at referendum. In addition, each supervisor shall receive reimbursement for expenses in accordance with the comprehensive travel regulations of the commissioner of finance and administration.

(h) All meetings of the board shall be open to the public and governed by Tennessee Code Annotated, Title 8, Chapter 44. Provided, however, a meeting of the board may be conducted by or in conjunction with communications media technology including teleconferences or video conferences. Any official action taken at a communications media technology meeting shall have not less than one (1) access point that is available to the public. The board shall provide public notice as otherwise required by law for other district meetings. The notice shall state that such meeting is to be conducted by means of communications media technology and shall describe how the public may attend and include the addresses of all access points. As used in this section, "access point" means a designated place where the public may attend and have access to the communications media technology equipment.

SECTION 7.

(a) The board shall employ, and fix the compensation of, a district manager. The district manager shall have charge and supervision of the works of the district and shall be responsible

for preserving and maintaining any improvement or facility constructed or erected pursuant to the provisions of this act, for maintaining and operating the equipment owned by the district, and for performing such other duties as may be prescribed by the board. It is not a conflict of interest under title 12, chapter 4, for a board member or the district manager or another employee of the district to be a stockholder, officer, or employee of a landowner. The district manager may hire or otherwise employ and terminate the employment of such other persons, including, without limitation, professional, supervisory, and clerical employees, as may be necessary and authorized by the board. The compensation and other conditions of employment of the officers and employees of the district shall be as provided by the board.

(b) The board shall designate a person who is a resident of the state as treasurer of the district, who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order, or pursuant to the resolution, of the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and may fix his or her compensation. The board may require the treasurer to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the board shall be audited by an independent certified public accountant at least once a year.

(c) The board is authorized to select as a depository for its funds any qualified public depository which is used by the State Treasurer as a qualified public depository, upon such terms and conditions as to the payment of interest as the board may deem just and reasonable.

SECTION 8.

(a) The district shall provide financial reports in such form and such manner as prescribed pursuant to this act.

(b) (1) On or before each April 15, the district manager shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for board approval. The proposed budget shall include at the direction of the board an estimate of all necessary expenditures of the district for the ensuing fiscal year and an estimate of income to the district from the assessments provided in this act. The board shall consider the proposed budget item by item and may either approve the budget as proposed by the district manager or modify the same in part or in whole. The board shall indicate its approval of the budget by resolution, which resolution shall provide for a hearing on the budget as approved. Notice of the hearing on the budget shall be published in a newspaper of general circulation in the area of the district once a week for two (2) consecutive weeks, except that the first publication shall be not fewer than fifteen (15) days before the date of the hearing. The notice shall further contain a designation of the day, time, and place of the public hearing. At the time and place designated in the notice, the board shall hear all objections to the budget as proposed and may make such changes as the board deems necessary. At the conclusion of the budget hearing, the board shall, by resolution, adopt the budget as finally approved by the board. The budget shall be adopted before July 1 of each year.

(2) At least sixty (60) days before adoption, the district board shall submit to the local governing bodies having jurisdiction over the area included in the district, the proposed annual budget for the ensuing fiscal year and any proposed long-term financial plan or program of the district for future operations, for purposes of disclosure and information only.

(3) The local governing bodies may review the proposed annual budget and any long-term financial plan or program and may submit written comments to the board for its assistance and information in adopting its annual budget and long-term financial plan or program.

SECTION 9.

(a) The district shall take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents and to all prospective residents of the district.

(b) The commissioner shall keep a current list of districts and their disclosures pursuant to this act.

SECTION 10. The district shall have, and the board may exercise, the following powers:

(1) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to dispose of, real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(2) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature.

(3) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(4) To adopt rules and orders pursuant to the provisions of title 4, chapter 5, prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing assessment liens and all other documents and records of the district. The board may also adopt administrative rules with respect to any of the projects of the district and define the area to be included therein.

The board may also adopt resolutions which may be necessary for the conduct of district business.

(5) To maintain an office at such place or places as it may designate within a county in which the district is located, which office must be reasonably accessible to the landowners.

(6) To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, or reservations for any of the purposes authorized by this act.

(7) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this act.

(8) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such special assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.

(9) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of the district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

(10) To exercise within the district, or beyond the district with prior approval by resolution of the governing body of the county if the taking will occur in an unincorporated area or with prior approval by resolution of the governing body of the municipality if the taking will occur within a municipality, the right and power of eminent domain, pursuant to the provisions of title 29, over any property within the state, except municipal, county, state, and federal property, for the uses and purposes of the district relating solely to water systems, sewer, district roads, and water management and control, specifically including, without limitation, the power for the

taking of easements for the drainage of the land of one person over and through the land of another.

(11) To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(12) To determine, order, levy, impose, collect, and enforce special assessments pursuant to this act. Such special assessments may, in the discretion of the district, be collected and enforced pursuant to general law.

(13) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(14) To exercise such special powers as may be authorized by this act.

SECTION 11. The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(a) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for the following infrastructures:

(1) Water management and control for the lands within the district and to connect some or any of such facilities with roads and bridges.

(2) Water supply, sewer, and wastewater management, reclamation, and reuse or any combination thereof, and to construct and operate connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any effluent, residue, or other byproducts of such system or sewer system.

(3) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.

(4) District roads equal to or exceeding the specifications of the county in which such district roads are located, and street lights.

(5) Parks and facilities for indoor and outdoor recreational, cultural, and educational uses.

(6) Fire prevention and control, including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment.

(7) Security, including, but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; except that the district may not exercise any police power, but may contract with the appropriate local government agencies for an increased level of such services within the district boundaries.

(8) Waste collection and disposal.

(9) The enforcement of covenants and deed restrictions, including architectural control, if an assignment of such rights by the declarant is made to the district.

(10) Any other project within or without the boundaries of a district when a local government has adopted a resolution approving or expressly requiring the construction or funding of the project by the district, or when the project is the subject of an agreement between the district and a governmental entity and is consistent with the local government comprehensive plan, if any, of the local government within which the project is to be located.

(b) To adopt and enforce appropriate rules in connection with the provision of one (1) or more services through its systems and facilities.

SECTION 12.

No community development district may purchase or sell a water, sewer, or wastewater reuse utility that provides service to the public for compensation, or enter into a wastewater facility privatization contract for a wastewater facility, until the governing body of the community development district has held a public hearing on the purchase, sale, or wastewater facility privatization contract and made a determination that the purchase, sale, or wastewater facility privatization contract is in the public interest. In determining if the purchase, sale, or wastewater facility privatization contract is in the public interest, the community development district shall consider, at a minimum, the following:

- (a) The most recent available income and expense statement for the utility;
- (b) The most recent available balance sheet for the utility, listing assets and liabilities and clearly showing the amount of contributions-in-aid-of-construction and the accumulated depreciation thereon;
- (c) A statement of the existing rate base of the utility for regulatory purposes;
- (d) The physical condition of the utility facilities being purchased, sold, or subject to a wastewater facility privatization contract;
- (e) The reasonableness of the purchase, sales, or wastewater facility privatization contract price and terms;
- (f) The impacts of the purchase, sale, or wastewater facility privatization contract on utility customers, both positive and negative;
- (g) (1) Any additional investment required and the ability and willingness of the purchaser or the private firm under a wastewater facility privatization contract to make

that investment, whether the purchaser is the community development district or the entity purchasing the utility from the community development district;

(2) In the case of a wastewater facility privatization contract, the terms and conditions on which the private firm will provide capital investment and financing or a combination thereof for contemplated capital replacements, additions, expansions, and repairs. The community development district shall give significant weight to these criteria.

(h) The alternatives to the purchase, sale, or wastewater facility privatization contract and the potential impact on utility customers if the purchase, sale, or wastewater facility privatization contract is not made;

(i) (1) The ability of the purchaser or the private firm under a wastewater facility privatization contract to provide and maintain high-quality and cost-effective utility service, whether the purchaser is the community development district or the entity purchasing the utility from the community development district;

(2) In the case of a wastewater facility privatization contract, the community development district shall give significant weight to the technical expertise and experience of the private firm in carrying out the obligations specified in the wastewater facility privatization contract; and

(j) All moneys paid by a private firm to a community development district pursuant to a wastewater facility privatization contract shall be used for the purpose of reducing or offsetting assessments, wastewater service rates, or debt reduction or making infrastructure improvements or capital asset expenditures or other public purpose; provided, however, nothing herein shall preclude the community development district from using all or part of the moneys for the purpose of the community development district's qualification for relief from the repayment of federal grant awards associated with the wastewater system as may be required by federal law or regulation. The community development district shall prepare a statement showing that the purchase, sale, or wastewater facility privatization contract is in the public

interest, including a summary of the purchaser's or private firm's experience in water, sewer, or wastewater reuse utility operation and a showing of financial ability to provide the service, whether the purchaser or private firm is the community development district or the entity purchasing the utility from the community development district.

SECTION 13. If the board assumes the responsibility for providing a project for the district as provided in Section 11 which is to be financed by benefit special assessments, the board shall proceed to adopt a management plan, assess for benefits, and apportion and levy special assessments, as follows:

(a) The board shall cause to be made by the district's engineer, or such other engineer or engineers as the board may employ for that purpose, complete and comprehensive management and control plans for the lands located within the district that will be improved in any part or in whole by any system of facilities that may be outlined and adopted, and the engineer shall make a report in writing to the board with maps and profiles of such surveys and an estimate of the cost of carrying out and completing the plans.

(b) Upon the completion of such plans, the board shall hold a hearing thereon to hear objections thereto, shall give notice of the time and place fixed for such hearing by publication once each week for two (2) consecutive weeks in a newspaper of general circulation, and shall permit the inspection of the plan at the office of the district by all persons interested. All objections to the plan shall be filed at or before the time fixed in the notice for the hearing and shall be in writing.

(c) After the hearing, the board shall consider the proposed plan and any objections thereto and may modify, reject, or adopt the plan or continue the hearing to a day certain for further consideration of the proposed plan or modifications thereof.

(d) When the board approves a plan, a resolution shall be adopted and a certified copy shall be filed in the office of the secretary and incorporated by him or her into the records of the district.

SECTION 14. In addition to the other powers provided for in this act, and not in limitation thereof, the district shall have the power, at any time, and from time to time after the issuance of any bonds of the district have been authorized, to borrow money for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and to issue bond anticipation notes in a principal sum not in excess of the authorized maximum amount of such bond issue. Such notes shall be in such denomination or denominations, bear interest at such rate or rates which may vary from time to time as the board may determine, mature at such time or times not later than five (5) years from the date of issuance, and be in such form and executed in such manner as the board shall prescribe. Such notes may be sold at either public or private sale or, if such notes shall be renewal notes, may be exchanged for notes then outstanding on such terms as the board shall determine. Such notes shall be paid from the proceeds of such bonds when issued. The board may, in its discretion, in lieu of retiring the notes by means of bonds, retire them by means of current revenues or from any assessments levied for the payment of such bonds; but in such event a like amount of the bonds authorized shall not be issued.

SECTION 15. The district at any time may obtain loans, in such amount and on such terms and conditions as the board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district, which loans shall bear such interest as the board may determine and may be payable from and secured by a pledge of such funds, revenues, and assessments as the board may determine, subject, however, to the provisions contained in any proceeding under which bonds were theretofore issued and are then outstanding. For the purpose of defraying such costs and expenses, the district may issue negotiable notes, warrants, or other evidences of

debt to be payable at such times, to bear interest at such rate or rates which may vary from time to time and to be sold or discounted at such price or prices and on such terms as the board may deem advisable. The board shall have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, and assessments of the district.

SECTION 16.

(a) SALE OF BONDS.--Bonds may be sold in blocks or installments at different times, or an entire issue or series may be sold at one time. Bonds may be sold at public or private sale after such advertisement, if any, and at such price as the board may deem advisable. Bonds may be sold or exchanged for refunding bonds. Special assessment and revenue bonds may be delivered by the district as payment of the purchase price of any project or part thereof, or a combination of projects or parts thereof, or as the purchase price or exchange for any property, real, personal, or mixed, including franchises or services rendered by any contractor, engineer, or other person, all at one time or in blocks from time to time, in such manner and upon such terms as the board in its discretion shall determine. The price or prices for any bonds sold, exchanged, or delivered may be:

- (1) The money paid for the bonds;
- (2) The principal amount, plus accrued interest to the date of redemption or exchange, or outstanding obligations exchanged for refunding bonds; and
- (3) The amount of any indebtedness to contractors or other persons paid with such bonds, or the fair value of any properties exchanged for the bonds, as determined by the board.

(b) AUTHORIZATION AND FORM OF BONDS.--Any bonds may be authorized by resolution or resolutions of the board which shall be adopted by a majority of all the members thereof then in office. Such resolution or resolutions may be adopted at the same meeting at which they are introduced and need not be published or posted. The board may, by resolution, authorize the issuance of bonds and fix the aggregate amount of bonds to be issued; the

purpose or purposes for which the moneys derived therefrom shall be expended, including, but not limited to, payment of costs; the rate or rates of interest; the denomination of the bonds; whether or not the bonds are to be issued in one or more series; the date or dates of maturity, which shall not exceed forty (40) years from their respective dates of issuance; the medium of payment; the place or places within or without the state where payment shall be made; registration privileges; redemption terms and privileges, whether with or without premium; the manner of execution; the form of the bonds, including any interest coupons to be attached thereto; the manner of execution of bonds and coupons; and any and all other terms, covenants, and conditions thereof and the establishment of revenue or other funds. Such authorizing resolution may further provide that such bonds may be executed in accordance with the general law, except that bonds not issued in registered form shall be valid if manually countersigned by an officer designated by appropriate resolution of the board. The seal of the district may be affixed, lithographed, engraved, or otherwise reproduced in facsimile on such bonds. In case any officer whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until such delivery.

(c) INTERIM CERTIFICATES; REPLACEMENT CERTIFICATES.--Pending the preparation of definitive bonds, the board may issue interim certificates or receipts or temporary bonds, in such form and with such provisions as the board may determine, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds which become mutilated, lost, or destroyed.

(d) NEGOTIABILITY OF BONDS.--Any bond issued under this act or any temporary bond, in the absence of an express recital on the face thereof that it is nonnegotiable, shall be

fully negotiable and shall be and constitute a negotiable instrument within the meaning and for all purposes of the law merchant and the laws of the state.

(e) DEFEASANCE.--The board may make such provision with respect to the defeasance of the right, title, and interest of the holders of any of the bonds and obligations of the district in any revenues, funds, or other properties by which such bonds are secured as the board deems appropriate and, without limitation on the foregoing, may provide that when such bonds or obligations become due and payable or shall have been called for redemption and the whole amount of the principal and interest and premium, if any, due and payable upon the bonds or obligations then outstanding shall be held in trust for such purpose and provision shall also be made for paying all other sums payable in connection with such bonds or other obligations, then and in such event the right, title, and interest of the holders of the bonds in any revenues, funds, or other properties by which such bonds are secured shall thereupon cease, terminate, and become void; and the board may apply any surplus in any sinking fund established in connection with such bonds or obligations and all balances remaining in all other funds or accounts other than money held for the redemption or payment of the bonds or other obligations to any lawful purpose of the district as the board shall determine.

(f) ISSUANCE OF ADDITIONAL BONDS.--If the proceeds of any bonds are less than the cost of completing the project in connection with which such bonds were issued, the board may authorize the issuance of additional bonds, upon such terms and conditions as the board may provide in the resolution authorizing the issuance thereof, but only in compliance with the resolution or other proceedings authorizing the issuance of the original bonds.

(g) REFUNDING BONDS.--The district shall have the power to issue bonds to provide for the retirement or refunding of any bonds or obligations of the district that at the time of such issuance are outstanding. Refunding bonds may be issued at any time when in the judgment of the board such issuance will be advantageous to the district. The board may by resolution confer upon the holders of such refunding bonds all rights, powers, and remedies to which the

holders would be entitled if they continued to be the owners and had possession of the bonds for the refinancing of which such refunding bonds are issued, including, but not limited to, the preservation of the lien of such bonds on the revenues of any project or on pledged funds, without extinguishment, impairment, or diminution thereof. The provisions of this act pertaining to bonds of the district shall, unless the context otherwise requires, govern the issuance of refunding bonds, the form and other details thereof, the rights of the holders thereof, and the duties of the board with respect to them.

(h) REVENUE BONDS--

(1) The district shall have the power to issue revenue bonds from time to time without limitation as to amount. Such revenue bonds may be secured by, or payable from, the gross or net pledge of the revenues to be derived from any project or combination of projects; from the rates, fees, or other charges to be collected from the users of any project or projects; from any revenue-producing undertaking or activity of the district; from special assessments; or from any other source or pledged security. Such bonds shall not constitute an indebtedness of the district, and the approval of the registered voters shall not be required unless such bonds are additionally secured by the full faith and credit of the district.

(2) Any two (2) or more projects may be combined and consolidated into a single project and may hereafter be operated and maintained as a single project. The revenue bonds authorized herein may be issued to finance any one (1) or more of such projects, regardless of whether or not such projects have been combined and consolidated into a single project. If the board deems it advisable, the proceedings authorizing such revenue bonds may provide that the district may thereafter combine the projects then being financed or theretofore financed with other projects to be subsequently financed by the district and that revenue bonds to be thereafter issued by the district shall be on parity with the revenue bonds then being issued, all on such terms, conditions, and

limitations as shall have been provided in the proceeding which authorized the original bonds.

(i) GENERAL OBLIGATION BONDS.--

(1) The district shall have the power from time to time to issue general obligation bonds to finance or refinance capital projects or to refund outstanding bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of thirty-five percent (35%) of the assessed value of the taxable property within the district as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the district is pledged.

(2) The district may pledge its full faith and credit for the payment of the principal and interest on such general obligation bonds and for any reserve funds provided therefor and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable property in the district, to the extent necessary for the payment thereof, without limitations as to rate or amount.

(3) If the board determines to issue general obligation bonds for more than one capital project, the approval of the issuance of the bonds for each and all such projects may be submitted to the electors on one and the same ballot. The failure of the electors to approve the issuance of bonds for any one or more capital projects shall not defeat the approval of bonds for any capital project which has been approved by the electors.

(4) In arriving at the amount of general obligation bonds permitted to be outstanding at any one time pursuant to subdivision (1), there shall not be included any general obligation bonds which are additionally secured by the pledge of:

(A) Special assessments levied in an amount sufficient to pay the principal and interest on the general obligation bonds so additionally secured, which assessments have been equalized and confirmed by resolution or ordinance of the board.

(B) Water revenues, sewer revenues, or water and sewer revenues of the district to be derived from user fees in an amount sufficient to pay the principal and interest on the general obligation bonds so additionally secured.

(C) Any combination of assessments and revenues described in subdivisions (A) and (B).

(j) BONDS AS LEGAL INVESTMENT OR SECURITY.--

(1) Notwithstanding any provisions of any other law to the contrary, all bonds issued under the provisions of this act shall constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and shall be and constitute security which may be deposited by banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory deposits.

(2) Any bonds issued by the district shall be incontestable in the hands of bona fide purchasers or holders for value and shall not be invalid because of any irregularity or defect in the proceedings for the issue and sale thereof.

(k) COVENANTS.--Any resolution authorizing the issuance of bonds may contain such covenants as the board may deem advisable, and all such covenants shall constitute valid and legally binding and enforceable contracts between the district and the bondholders, regardless of the time of issuance thereof. Such covenants may include, without limitation, covenants concerning the disposition of the bond proceeds; the use and disposition of project revenues; the pledging of revenues, and assessments; the obligations of the district with respect to the operation of the project and the maintenance of adequate project revenues; the issuance of additional bonds; the appointment, powers, and duties of trustees and receivers; the acquisition of outstanding bonds and obligations; restrictions on the establishing of competing projects or

facilities; restrictions on the sale or disposal of the assets and property of the district; the priority of assessment liens; the priority of claims by bondholders on the taxing power of the district; the maintenance of deposits to assure the payment of revenues by users of district facilities and services; the discontinuance of district services by reason of delinquent payments; acceleration upon default; the execution of necessary instruments; the procedure for amending or abrogating covenants with the bondholders; and such other covenants as may be deemed necessary or desirable for the security of the bondholders.

(l) ACT FURNISHES FULL AUTHORITY FOR ISSUANCE OF BONDS.--This act constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district provided herein. No procedures or proceedings, publications, notices, consents, approvals, orders, acts, or things by the board, or any board, officers, commission, department, agency, or instrumentality of the district, other than those required by this act, shall be required to perform anything under this act, except that the issuance or sale of bonds pursuant to the provisions of this act shall comply with the general legal requirements applicable to the issuance or sale of bonds by the district. Nothing in this act shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

(m) PLEDGE BY THE STATE TO THE BONDHOLDERS OF THE DISTRICT.--The state pledges to the holders of any bonds issued under this act that it will not limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the assessments, rentals, rates, fees, and other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

(n) DEFAULT.--A default on the bonds or obligations of a district shall not constitute a debt or obligation of a local government or the state.

SECTION 17. Any issue of bonds shall be issued pursuant to, and if applicable, secured by a trust agreement by and between the district and a corporate trustee or trustees,

which may be any trust company or bank having the powers of a trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received from any projects of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board may approve, including, without limitation, covenants setting forth the duties of the district in relation to: the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects; the fixing and revising of the rates, fees, and charges; and the custody, safeguarding, and application of all moneys and for the employment of consulting engineers in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, or operation. It shall be lawful for any bank or trust company within or without the state which may act as a depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the district. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. The board may provide for the payment of proceeds of the sale of the bonds and the revenues of any project to such officer, board, or depository as it may designate for the custody thereof and may provide for the method of disbursement thereof with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of operation of the project to which such trust agreement pertains.

SECTION 18.

(a) BENEFIT SPECIAL ASSESSMENTS.--The board shall annually determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance district facilities and projects which are levied under this act. These assessments may be due and collected during each year that county taxes are due and

collected, in which case such annual installment and levy shall be evidenced to and certified to the property appraiser by the board not later than August 31 of each year, and such assessment shall be entered by the property appraiser on the county tax rolls, and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to the district. These benefit special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the assessment for the exercise of the district's powers under this act shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land.

(b) MAINTENANCE SPECIAL ASSESSMENTS.--To maintain and preserve the facilities and projects of the district, the board may levy a maintenance special assessment. This assessment may be evidenced to and certified to the property appraiser by the board of supervisors not later than August 31 of each year and shall be entered by the property appraiser on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds therefrom shall be paid to the district. These maintenance special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the maintenance special assessment for the exercise of the district's powers under this act shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

(c) ENFORCEMENT OF ASSESSMENTS.--The collection and enforcement of all assessments levied by the district shall be at the same time and in like manner as county taxes,

and the provisions of the general law relating to the sale of lands for unpaid and delinquent county taxes; the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds based thereon; and all other procedures in connection therewith shall be applicable to the district to the same extent as if such statutory provisions were expressly set forth herein.

(d) WHEN UNPAID ASSESSMENT IS DELINQUENT; PENALTY.--All assessments provided for in this act shall become delinquent and bear penalties on the amount of such assessments in the same manner as county taxes.

(e) TAX EXEMPTION.--All bonds issued hereunder and interest paid thereon and all fees, charges, and other revenues derived by the district from the projects provided by this act are exempt from all taxes by the state or by any political subdivision, agency, or instrumentality thereof.

SECTION 19.

(a) The board may levy special assessments for the construction, reconstruction, acquisition, or maintenance of district facilities authorized under this chapter using the procedures for levy and collection provided in title 67, chapter 5.

(b) District assessments may be made payable in twenty (20) yearly installments.

SECTION 20.

(a) The board may, after any assessments for assessable improvements are made, determined, and confirmed as provided in Section 19, issue certificates of indebtedness for the amount so assessed against the abutting property or property otherwise benefited, as the case may be; and separate certificates shall be issued against each part or parcel of land or property assessed, which certificates shall state the general nature of the improvement for which the assessment is made. The certificates shall be payable in annual installments in accordance with the installments of the special assessment for which they are issued. The board may determine the interest to be borne by such certificates and may sell such certificates at either private or

public sale and determine the form, manner of execution, and other details of such certificates. The certificates shall recite that they are payable only from the special assessments levied and collected from the part or parcel of land or property against which they are issued. The proceeds of such certificates may be pledged for the payment of principal of and interest on any revenue bonds or general obligation bonds issued to finance in whole or in part such assessable improvement, or, if not so pledged, may be used to pay the cost or part of the cost of such assessable improvements.

(b) The district may also issue assessment bonds or other obligations payable from a special fund into which such certificates of indebtedness referred to in the preceding subsection may be deposited; or, if such certificates of indebtedness have not been issued, the district may assign to such special fund for the benefit of the holders of such assessment bonds or other obligations, or to a trustee for such bondholders, the assessment liens provided for in this act unless such certificates of indebtedness or assessment liens have been theretofore pledged for any bonds or other obligations authorized hereunder. In the event of the creation of such special fund and the issuance of such assessment bonds or other obligations, the proceeds of such certificates of indebtedness or assessment liens deposited therein shall be used only for the payment of the assessment bonds or other obligations issued as provided in this section. The district is authorized to covenant with the holders of such assessment bonds or other obligations that it will diligently and faithfully enforce and collect all the special assessments and interest and penalties thereon for which such certificates of indebtedness or assessment liens have been deposited in or assigned to such fund; to foreclose such assessment liens so assigned to such special fund or represented by the certificates of indebtedness deposited in the special fund, after such assessment liens have become delinquent, and deposit the proceeds derived from such foreclosure, including interest and penalties, in such special fund; and to make any other covenants deemed necessary or advisable in order to properly secure the holders of such assessment bonds or other obligation.

(c) The assessment bonds or other obligations issued pursuant to this section shall have such dates of issue and maturity as shall be deemed advisable by the board; however, the maturities of such assessment bonds or other obligations shall not be more than two (2) years after the due date of the last installment which will be payable on any of the special assessments for which such assessment liens, or the certificates of indebtedness representing such assessment liens, are assigned to or deposited in such special fund.

(d) Such assessment bonds or other obligations issued under this section shall bear such interest as the board may determine, and shall be executed, shall have such provisions for redemption before maturity, shall be sold in the manner and be subject to all of the applicable provisions contained in this act for revenue bonds, except as the same may be inconsistent with the provisions of this section.

(e) All assessment bonds or other obligations issued under the provisions of this act, except certificates of indebtedness issued against separate lots or parcels of land or property as provided in this section, shall be and constitute and shall have all the qualities and incidents of negotiable instruments under the law of the state.

SECTION 21. All assessments of the district provided for in this act, together with all penalties for default in the payment of the same and all costs in collecting the same, including a reasonable attorney's fee fixed by the court and taxed as a cost in the action brought to enforce payment, shall, from January 1 for each year the property is liable to assessment and until paid, constitute a lien of equal dignity with the liens for state and county taxes and other taxes of equal dignity with state and county taxes upon all the lands against which such taxes shall be levied. A sale of any of the real property within the district for state and county or other taxes shall not operate to relieve or release the property so sold from the lien for subsequent district assessments or installments of district assessments, which lien may be enforced against such property as though no such sale thereof had been made.

SECTION 22.

(a) The district has the right to pay any delinquent state, county, district, municipal, or other tax or assessment upon lands located wholly or partially within the boundaries of the district; and

(b) Delinquent assessments paid, redeemed or purchased, by the district, together with all penalties for the default in payment of the same and all costs in collecting the same and a reasonable attorney's fee, shall constitute a lien in favor of the district of equal dignity with the liens of state and county taxes and other taxes of equal dignity with state and county taxes upon all the real property against which the taxes were levied. The lien of the district may be foreclosed in the manner provided in this act.

(c) In any assessment sale, the district may certify to the clerk of the circuit court of the county holding such sale the amount of assessments due to the district upon the lands sought to be sold; and the district shall share in the disbursement of the sales proceeds in accordance with the provisions of this act and under the laws of the state.

SECTION 23. Any lien in favor of the district arising under this act may be foreclosed by the district by foreclosure proceedings in the name of the district in a court of competent jurisdiction as provided by general law. Any act required or authorized to be done by or on behalf of a municipality in foreclosure proceedings may be performed by such officer or agent of the district as the board of supervisors may designate. Such foreclosure proceedings may be brought at any time after the expiration of one (1) year from the date any assessment, or installment thereof, becomes delinquent; provided, however, no lien shall be foreclosed against any political subdivision or agency of the state. Other legal remedies shall remain available.

SECTION 24. To the full extent permitted by law, the district shall require all lands, buildings, premises, persons, firms, and corporations within the district to use the water management and control facilities and water and sewer systems of the district.

SECTION 25.

(a) No contract shall be let by the board for the construction of any project authorized by this act, nor shall any goods, supplies, or materials be purchased, when the amount thereof to be paid by the district exceeds one thousand dollars (\$100,000), unless notice of bids shall be advertised once in a newspaper in general circulation in the county and in the district. In each case, the bid of the lowest responsive and responsible bidder shall be accepted unless all bids are rejected because the bids are too high, or the board determines it is in the best interests of the district to reject all bids. The board may require the bidders to furnish bond with a responsible surety to be approved by the board. Nothing in this section shall prevent the board from undertaking and performing the construction, operation, and maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

(b) The district shall adopt rules establishing competitive bidding procedures for maintenance services. Contracts for other services shall not be subject to competitive bidding unless the district adopts a rule applying competitive bidding procedures to such contracts.

SECTION 26.

(a) The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, hereinafter sometimes referred to as "revenues," and to revise the same from time to time, for the facilities and services furnished by the district, within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any district facility or system; and to provide for reasonable penalties against any user or property for any such rates, fees, rentals, or other charges that are delinquent.

(b) No such rates, fees, rentals, or other charges for any of the facilities or services of the district shall be fixed until after a public hearing at which all the users of the proposed facility or services or owners, tenants, or occupants served or to be served thereby and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees,

rentals, or other charges. Rates, fees, rentals, and other charges shall be adopted under the administrative rulemaking authority of the district, but shall not apply to district leases. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, rentals, and other charges shall have been published in a newspaper in a county and of general circulation in the district at least once and at least ten (10) days before such public hearing. The rulemaking hearing may be adjourned from time to time. After such hearing, such schedule or schedules, either as initially proposed or as modified or amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees, rentals, or charges as finally adopted shall be kept on file in an office designated by the board and shall be open at all reasonable times to public inspection. The rates, fees, rentals, or charges so fixed for any class of users or property served shall be extended to cover any additional users or properties thereafter served which shall fall in the same class, without the necessity of any notice or hearing.

(c) Such rates, fees, rentals, and charges shall be just and equitable and uniform for users of the same class, and when appropriate may be based or computed either upon the amount of service furnished, upon the number or average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

(d) The rates, fees, rentals, or other charges prescribed shall be such as will produce revenues, together with any other assessments, revenues, or funds available or pledged for such purpose, at least sufficient to provide for the items hereinafter listed, but not necessarily in the order stated:

(1) To provide for all expenses of operation and maintenance of such facility or service;

(2) To pay when due all bonds and interest thereon for the payment of which such revenues are, or shall have been, pledged or encumbered, including reserves for such purpose; and

(3) To provide for any other funds which may be required under the resolution or resolutions authorizing the issuance of bonds pursuant to this act.

(e) The board shall have the power to enter into contracts for the use of the projects of the district and with respect to the services and facilities furnished or to be furnished by the district.

SECTION 27. If any rates, fees, rentals, charges, or delinquent penalties are not paid when due and are in default for sixty (60) days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the district in a civil action.

SECTION 28. If the fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the board shall have the power, under such reasonable rules and regulations as the board may adopt, to discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such water and sewer services or both, are fully paid; and, for such purposes, the board may enter on any lands, waters, or premises of any person, firm, corporation, or body, public or private, within the district limits. Such delinquent fees, rentals, or other charges, together with interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities and reasonable attorney's fees and other expenses, may be recovered by the district, which may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement, including the placement of liens and the foreclosure of such liens.

SECTION 29. The board or any aggrieved person may have recourse to such remedies in law and at equity as may be necessary to ensure compliance with the provisions of this act,

including injunctive relief to enjoin or restrain any person violating the provisions of this act or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this act. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, land, or water is used, in violation of this act or of any code, order, resolution, or other regulation made under authority conferred by this act or under law, the board or any citizen residing in the district may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or avoid such violation; to prevent the occupancy of such building, structure, land, or water; and to prevent any illegal act, conduct, business, or use in or about such premises, land, or water.

SECTION 30. Any suit or action brought or maintained against the district for damages arising out of tort, including, without limitation, any claim arising upon account of an act causing an injury or loss of property, personal injury, or death, shall be subject to the limitations provided in title 29, chapter 20.

SECTION 31. All district property shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against such property, nor shall any judgment against the district be a charge or lien on its property or revenues; however, nothing contained herein shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the district in connection with any of the bonds or obligations of the district.

SECTION 32.

(a) The board may petition to contract or expand the boundaries of a community development district in the following manner:

(1) The petition shall contain the same information required by Section 5. In addition, if the petitioner seeks to expand the district, the petition shall describe the proposed timetable for construction of any district services to the area, the estimated

cost of constructing the proposed services, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the adopted local government local comprehensive plan. If the petitioner seeks to contract the district, the petition shall describe what services and facilities are currently provided by the district to the area being removed, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land element of the adopted local government comprehensive plan.

(2) (A) The petition shall be filed with the comptroller.

(B) Before filing the petition, the petitioner shall pay a filing fee of one thousand five hundred dollars (\$1,500) to each county and to each municipality the boundaries of which are contiguous with or contain all or a portion of the land within the district or the proposed amendment, and submit a copy of the petition to each county and to each such municipality. In addition, if the district is not the petitioner, the petitioner shall file the petition with the district board of supervisors.

(C) Each county and each municipality shall have the option of holding a public hearing as provided by Section 5. Provided, however, such public hearing shall be limited to consideration of the contents of the petition and whether the petition for amendment should be supported by the county or municipality.

(D) The district board of supervisors shall, instead of the comptroller, hold the local public hearing provided for by Section 5. This local public hearing shall be noticed in the same manner as provided in Section 5. Within forty-five (45) days of the conclusion of the hearing, the district board of supervisors shall transmit to the commissioner the full record of the local hearing, the transcript of the hearing, any resolutions adopted by the local governments, and its

recommendation whether to grant the petition for amendment. The comptroller shall then proceed in accordance with Section 5.

(E) A petition amending a district boundary shall describe the land to be added or deleted.

(3) In all cases, written consent of all the landowners whose land is to be added to or deleted from the district is required.

(b) The district shall remain in existence unless:

(1) The district is merged with another district as provided in subsection (c);

(2) All of the specific community development services that it is authorized to perform have been transferred to a unit of local government in the manner provided in subsections (d), (e), and (f); or

(3) The district is dissolved as provided in subsection (g).

(c) The district may merge with other community development districts upon filing a petition for establishment of a community development district pursuant to Section 5 or may merge with any other special districts upon filing a petition for establishment of a community development district pursuant to Section 5. The entity formed by a merger involving a community development district pursuant to this section shall assume all indebtedness of, and receive title to, all property owned by the preexisting special districts. Before filing such petition, the districts desiring to merge shall enter into a merger agreement and shall provide for the proper allocation of the indebtedness so assumed and the manner in which such debt shall be retired.

(d) The local government within the geographical boundaries of which the district lies may adopt a nonemergency ordinance or resolution providing for a plan for the transfer of a specific community development service from a district to the local government. The plan must provide for the assumption and guarantee of the district debt that is related to the service by the

local government and must demonstrate the ability of the local government to provide such service:

(1) As efficiently as the district.

(2) At a level of quality equal to or higher than the level of quality actually delivered by the district to the users of the service.

(3) At a charge equal to or lower than the actual charge by the district to the users of the service.

(e) No later than thirty (30) days after the adoption of a transfer plan ordinance, the board of supervisors may file, in the circuit court for the county in which the local government that adopted the ordinance is located, a petition seeking review by certiorari of the factual and legal basis for the adoption of the transfer plan ordinance.

(f) Upon the transfer of all of the community development services of the district to a unit of local government, the district shall be terminated in accordance with a plan of termination which shall be adopted by the board of supervisors and filed with the comptroller.

(g) If, within five (5) years after the effective date of the petition creating the district, a landowner has not received a building permit, on some part or all of the area covered by the district, then the district will be automatically dissolved and the comptroller shall cause a statement to that effect to be filed in the public records.

(h) If a district is found to be inactive by the comptroller, the land shall revert to the city of county where the land is located.

SECTION 33. (a) The exercise of the powers granted by this act shall be in all respects for the benefit of the people of the state for their well-being and prosperity and for the improvement of their social and economic conditions, and the district shall not be required to pay any tax or assessment on any property owned by the district or upon the income therefrom; provided, however, property sold by the district to an entity subject to taxation shall be taxable,

and on property leased to an entity subject to taxation shall be subject to the same in lieu of tax provisions as other industrial development projects.

- (b) Sales of tangible personal property made to the district within the state shall be exempt

from the tax imposed by Tennessee Code Annotated, Title 67, Chapter 6.

- (c) Any bonds issued by the district under this act, their transfer and the income therefrom

shall at all times be free from taxation by the state or any unit of local government or other instrumentality of the state, except for inheritance or gift taxes, and any transfer or encumbrance of property to or by the district shall be exempt from any tax imposed by Tennessee Code Annotated, Section 67-4-409.

- (d) (1) Any pledge of, or lien on, revenues, assessments, fees, rents, tolls or other charges received or receivable by any district to secure the payment of any bonds or notes issued by a district pursuant to the provisions of this act, and the interest thereon, shall be valid and binding from the time that the pledge or lien is created or granted and shall inure to the benefit of the holder or holders of any such bonds or notes until the payment in full of the principal thereof and premium and interest thereon.

- (2) The priority of any pledge or lien with respect to competing pledges or liens shall be determined by the date such pledge or lien is created or granted.

- (3) Neither the resolution nor any other instrument granting, creating, or giving notice of the pledge or lien need be filed or recorded to preserve or protect the validity or priority of such pledge or lien.

(e) The provisions of subsection (d) apply to all pledges of and liens on revenues, assessments, fees, rents, tolls or other charges received or receivable by any district to secure the payment of any bonds or notes issued by a district

SECTION 34. After the creation of a district under this act, each contract for the sale of real estate within the district shall include, immediately before the space reserved in the contract for the signature of the purchaser, the following statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract: "THE (Name of District) DISTRICT IMPOSES ASSESSMENTS, ON THIS PROPERTY THROUGH A SPECIAL ASSESSMENT DISTRICT. THESE ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE ASSESSMENTS ARE IN ADDITION TO COUNTY AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

SECTION 35. There shall be no local law or general law of local application creating an independent special district which has the powers enumerated in two (2) or more of the paragraphs contained in Section 11.

SECTION 36. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 37. This act shall take effect upon becoming a law, the public welfare requiring it.